REMARKS/ARGUMENTS

The present amendment is submitted in an earnest effort to advance the case to issue without delay.

Claims 1, 4 and 6-7 were rejected under 35 U.S.C. § 102(b) as anticipated by WO 00/61107 (Beerse et al.). Applicants traverse this rejection.

Beerse et al. was cited specifically for the Example 14 disclosure. Therein is reported a composition comprising 3.20% sodium malonate and 4.00% malonic acid.

Unlike the claimed invention, Beerse does not disclose a half neutralized salt of malonic acid. There is reference to only one malonate salt mentioned. It is not known whether the "sodium malonate" is meant to be disodium malonate (fully neutralized) or sodium hydrogen malonate (half neutralized) variant. For this reason the reference would not anticipate the claims.

Neither would this reference render the instant invention obvious. Malonic acid is present as a proton donating agent. This means it is selected simply because it is an acid rather than for any special aspect of the organic radical. Indeed, mineral acids are considered by Beerse as the equivalent of any organic acid. It is clear that the references ascribes no skin activity to the malonate species. Thus, those skilled in the art would not be led to utilize malonates for the presently claimed purpose of controlling signs of aging such as improving skin softness, suppleness and flexibility.

Claims 1, 4 and 6-7 were rejected under 35 U.S.C. § 102(b) as anticipated by US Patent 2,586,288 (Apperson et al.). Applicants traverse this rejection.

Apperson was introduced as disclosing in Example 6 a composition comprising 11.9% diammonium malonate.

Unlike the presently claimed invention, Apperson does not disclose the half neutralized malonic acid salt. For this reason there would be no anticipation.

Diammonium malonate and other ammonium salts are utilized in the reference to prevent discoloration of fabrics in contact with astringent aluminum salt antiperspirant compositions. Prevention of discoloration is quite different than applicants' discovery that malonates can control the signs of aging such as improving skin softness, suppleness and flexibility.

Claims 1 and 4-7 were rejected under 35 U.S.C. § 102(b) as anticipated by US Patent 5,641,495 (Jokura et al.). Applicants traverse this rejection.

Jokura was introduced as disclosing a skin cosmetic composition comprising: (A) a ceramide or a pseudoceramide; (B) a dicarboxylic acid; and (C) a salt of a dicarboxylic acid. There is a single reference to malonic acid within a list of dicarboxylic acids. See column 3, lines 33-34. None of the Examples exemplify any malonic acid or salt thereof.

Unlike the presently claimed invention, the reference does not disclose the half neutralized malonic acid. Neither is there any disclosure of a half neutralized generic dicarboxylic acid. For this reason the claims would not be anticipated by the reference.

Claims 2-3 were rejected under 35 U.S.C. § 103(a) as unpatentable over US Patent 5,641,495 (Jokura). Applicants traverse this rejection.

Applicants have found that skin softness, suppleness and flexibility can be improved through use of malonate salts. These salts are combinations of mono- and di- neutralized acid groups of a malonate.

Experiments have been performed via a Porcine Skin Test described under Example 9. Under Table VIII, it is seen that malonate salts are much better than glycolate or succinate salts with respect to improving skin flexibility (softness and suppleness). These results were surprising. Glycolates which are alpha-hydroxycarboxylic acids are well known to improve the flexibility of skin. Non-hydroxycarboxylic acids such as malonic have not received very much attention and are not particularly known for having any special skin activity. It was surprising to observe that the malonate was substantially better than the glycolate salt. Even more interesting was that succinate (malonic acid with one extra methylene group) did not perform well.

Jokura has but a single reference to malonic acid. See column 3 lines 33-34. Malonic is in a list with succinic, fumaric, maleic, glutaric, adipic, phthalic and terephthalic acids. The reference is silent as to malonic in all other respects. The only exemplified dicarboxylic acid is succinic. Even the exemplification of succinic acid does not disclose the half neutralized acid salt, i.e. sodium or potassium hydrogen succinate.

Furthermore, applicants have demonstrated in their Example 9 (Table VIII) that the next highest congener (i.e. succinic acid) performed substantially less well than the malonate salt. Indeed, the malonate salt performed better than the glycolate salt, the latter being a fabled alpha hydroxy acid salt. Anyone skilled in the art would neither have expected nor selected malonates over succinates in considering the Jokura

reference. Based on these considerations, those skilled in the art would not have considered the presently claimed invention as an obvious one.

Claims 1-3 and 5-7 were provisionally rejected for obviousness-type double patenting over claims 1-7 and 9 of co-pending application Serial No. 10/347,982.

Applicants herewith provide a Terminal Disclaimer which is believed to overcome this rejection.

Claims 1-7 were provisionally rejected for obviousness-type double patenting over claims 1-6 of co-pending application Serial No. 10/374,300.

Applicants herewith submit a Terminal Disclaimer which is believed to overcome this rejection.

Claims 1-5 were provisionally rejected for obviousness-type double patenting over claims 1-2 and 7 of co-pending application Serial No. 10/601,819 in view of Clark.

Applicants herewith submit a Terminal Disclaimer which is believed to overcome this rejection.

Claims 1-5 were provisionally rejected for obviousness-type double patenting over claims 1-6 of co-pending application Serial No. 10/601,856 in view of JP 61215318.

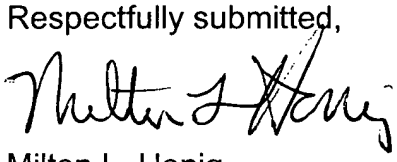
Applicants herewith submit a Terminal Disclaimer which is believed to overcome this rejection.

Claims 1-5 were provisionally rejected for obviousness-type double patenting over claims 1-5 of co-pending application Serial No. 10/767,679 in view of US Patent 5,965,518 (Nakatsu et al.).

Applicants herewith submit a Terminal Disclaimer which is believed to overcome this rejection.

In view of the foregoing amendment, Terminal Disclaimer and comments, applicants request the Examiner to reconsider the rejection and now allow the claims.

Respectfully submitted,



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